

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA

*

v.

*

Criminal No. CCB-19-0371

JOSHUA LANKFORD, et al.

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MOTION TO SUPPRESS HISTORICAL CELL SITE DATA

Joshua Lankford, by and through his undersigned counsel, James Wyda, Federal Public Defender for the District of Maryland and Brendan A. Hurson, Assistant Federal Public Defender, pursuant to Rule 12(b)(3) of the Federal Rules of Criminal Procedure, moves to suppress illegally obtained evidence, namely historical cell site data and other information learned from the execution of a search warrant on or around July 9, 2019. In further support, Mr. Lankford states as follows:

1) Mr. Lankford is charged with co-defendants Lakeya Aldridge and Kevonne Murphy in a four (4) count indictment alleging a conspiracy to commit sex trafficking in violation of 18 U.S.C. § 1594(c) and 18 U.S.C. § 2 (count 1), sex trafficking by force, fraud and coercion in violation of 18 U.S.C. §§ 1591(a) and (b)(1), and 18 U.S.C. § 2 (count 2); conspiracy to commit kidnapping in violation of 18 U.S.C. §§ 1201(a) and (c), and 18 U.S.C. § 2 (count 3), and kidnapping in violation of 18 U.S.C. § 1201(a), and 18 U.S.C. § 2 (count 4). He has pleaded not guilty and is awaiting a motions hearing and trial.

2) As part of the investigation of Mr. Lankford and his co-defendants, Homeland Security Investigations Special Agent Cara Rose secured a search warrant for “information associated with the cellular telephone number assigned call number (410)330-4873.” SW Application for Cell

Site Data, 1 (Ex. 2 to Defendant's Omnibus Reply)(filed Under Seal). This warrant issued on July 9, 2019, eight (8) months after authorities had all the information included in the application and well over a year after they knew that a warrant was required to secure the records sought. See Carpenter v. United States, 138 S. Ct. 2206, 2221, 201 L. Ed. 2d 507 (2018)("Having found that the acquisition of Carpenters [Cell Site Location Information] was a search, we also conclude that the Government must generally obtain a warrant supported by probable cause before acquiring such records.")

3) For the reasons noted in Defendant's Omnibus Reply to pending Motions,¹ the warrant shouldn't have issued.

3) Specifically, the initial seizure of the phone and its continued retention by law enforcement was unlawful, thus tainting any subsequent search related to the phone, even those authorized by warrant. This would include the application for historical cell site data because it relied on information learned only through the unlawful seizure and retention of the phone, specifically the International Mobile Subscriber Identity/Electronic Serial Number.

4) Further, the application for historical cell site data rested on statements made by Mr. Lankford in violation of Miranda v. Arizona, 384 U.S. 436, 467 (1966) or that were otherwise involuntary. When those statements are excised from the warrant application, it fails to establish probable cause that the phone was involved in a crime or that its historical cell site data will contain evidence of a crime.

5) Mr. Lankford also maintains that the extreme delay in seeking the search warrant for

¹ Mr. Lankford contemporaneously files an Omnibus Reply to the Government's Response to Pending Motions. For convenience, the arguments in support of this motion are also included in that filing.

historical cell site data is fatal under United States v. Pratt, 915 F.3d 266, 273 (4th Cir. 2019).

CONCLUSION

For the reasons set forth above, those included in Mr. Lankford's Reply to Government's Response, and those arguments to be offered at a hearing on the motion, Mr. Lankford requests that this Court suppress historical cell site data and other information secured pursuant to a search warrant issued on or about July 9, 2019.

Respectfully submitted,

JAMES WYDA
Federal Public Defender

/s/

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REQUEST FOR HEARING

Pursuant to Rule 105.6 of the Local Rules of the United States District of Maryland, a hearing is requested on the defendant's Motion.

/s/

BRENDAN A. HURSON
Assistant Federal Public Defender